

301 CMR: EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

301 CMR 26: COASTAL POLLUTANT REMEDIATION PROGRAM

Section

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26.01: Authority

301 CMR 26.00 is adopted by the Executive Office of Energy and Environmental Affairs under the authority of St. 1994, c. 273, § 2I that creates a program to be commonly known as the Coastal Pollutant Remediation Grant Program. As the jurisdiction for the Program is the watersheds of the Massachusetts coastal zone, the Energy and Environmental Affairs Secretary has designated the Office of Coastal Zone Management to administer this program, pursuant to M.G.L. c. 21A, § 4A.

26.02: Purpose

301 CMR 26.00 is promulgated to establish uniform application, review, award, and disbursement procedures and requirements for municipalities to apply for and receive grant funds allocated under the provisions of St. 1994, c. 273, § 2I.

26.03: Definitions

Throughout 301 CMR 26.00, the terms listed below shall have the following meaning unless otherwise specified:

Applicant means the chief executive of any city or town found within the following coastal watersheds: Boston Harbor (includes Mystic, Neponset, Weymouth and Weir), Buzzards Bay, Cape Cod, Charles, Concord, Ipswich, Islands, Merrimac, Mount Hope, Narragansett, Nashua, North Coastal, Parker, Shawsheen, South Coastal, Taunton, Weymouth and Weir, and the Ten Mile.

Application means the document submitted to the Committee for consideration of grant funds under the Program.

Boat Pumpout Facilities means a mobile or fixed station facility that pumps or receives sewage from a marine sanitation device (holding tank) installed on board vessels.

Cash Contributions means the outlay of monetary contributions made by the Applicant for an awarded project.

Committee means the panel of representatives from state and federal agencies who will review all applications for grant funds under the Program.

Director means the Director of the Office of Coastal Zone Management who has been designated by the Secretary of the Executive Office of Energy and Environmental Affairs to manage the Program.

Grant Funds means those funds which are to be awarded for Program projects under St. 1994, c. 273, § 2I.

In-Kind Contributions means the value of non-cash contributions provided by the Applicant, which may be in the form of the value of goods and services directly benefiting and specifically identifiable to the project.

Marine Sanitation Device means any equipment for installation on board a vessel and which is designed to retain, treat, or discharge sewage and any process to treat such sewage.

Matching Share means the portion of the project costs provided by the Applicant and not supported by the Program grant funds awarded to the Applicant.

Nonpoint Pollution means contamination which includes but is not limited to sediments, nutrients, pathogens, and pollutants that collect in waterbodies from stormwater runoff and boat waste discharges.

Office means the Office of Coastal Zone Management.

Plans means any designs, and relevant documentation prepared for and directly supporting or describing the project specified in an application for grant funds.

Program means the Coastal Pollutant Remediation Grant Program established by the authority of St. 1994, c. 273, § 2I.

Project means an improvement or activity, that may include without limitation, planning, engineering, repair, construction or reconstruction of boatyard pumpout facilities or stormwater drainage facilities along roads, highways, and bridges. Each project must be:

- (a) separate and distinct;

- (b) in one geographic area; and
- (c) identified in a site plan accompanying the application.

Project Cost means total cost of the Project, including reimbursement costs funded by grant funds and other costs that will be financed by matching funds.

Reimbursement Costs means costs incurred by the Applicant for its project for which grant funds are awarded. These costs shall be supported by documentation and proof of expenditure as described below in 301 CMR 26.08: *Fiscal Considerations*.

Remediation means, for purposes of the Program and these regulations, correcting or counteracting a source of nonpoint pollution from a roadway.

Request for Responses means a competitive solicitation issued by the Office for proposals for Program grant awards.

Roadways means surfaces such as roads, highways, bridges and municipal parking lots used by motor vehicles.

Runoff means water from precipitation or snow melt which is not readily absorbed into the ground, but rather flows over the land surface and into adjacent waterbodies.

Secretary means the Secretary of the Executive Office of Energy and Environmental Affairs.

Waterbodies means the following resources which have a direct impact on coastal waters: wetlands, ponds, lakes, reservoirs, creeks, streams, rivers, marine waters and other areas where surface water collects.

26.04: Eligibility Requirements and Conditions

(1) Cities and towns that are located within the following coastal watersheds: Boston Harbor (includes Mystic, Neponset, Weymouth and Weir), Buzzards Bay, Cape Cod, Charles, Concord, Ipswich, Islands, Merrimac, Mount Hope, Mystic, Narragansett, Nashua, Neponset, North Coastal, Parker, Shawsheen, South Coastal, Taunton, Weymouth and Weir, and the Ten Mile are eligible. These include the following municipalities: Abington, Acton, Acushnet, Amesbury, Andover, Arlington, Ashburnham, Ashby, Ashland, Attleboro, Avon, Ayer, Barnstable, Bedford, Bellingham, Belmont, Berkley, Berlin, Beverly, Billerica, Bolton, Boston, Bourne, Boxborough, Boxford, Boylston, Braintree, Brewster, Bridgewater, Brockton, Brookline, Burlington, Cambridge, Canton, Carlisle, Carver, Chatham, Chelmsford, Chelsea, Chilmark, Clinton, Cohasset, Concord, Danvers, Dartmouth, Dedham, Dennis, Dighton, Dover, Dracut, Dunstable, Duxbury, East Bridgewater, Eastham, Easton, Edgartown, Essex, Everett, Fairhaven, Fall River, Falmouth, Fitchburg, Foxborough, Framingham, Franklin, Freetown, Gardner, Gay Head, Georgetown, Gloucester, Gosnold,

Grafton, Groton, Groveland, Halifax, Hamilton, Hanover, Hanson, Harvard, Harwich, Haverhill, Hingham, Holbrook, Holden, Holliston, Hopedale, Hopkinton, Hubbardston, Hudson, Hull, Ipswich, Kingston, Lakeville, Lancaster, Lawrence, Leominster, Lexington, Lincoln, Littleton, Lowell, Lunenburg, Lynn, Lynnfield, Malden, Manchester, Mansfield, Marblehead, Marion, Marlborough, Marshfield, Mashpee, Mattapoisett, Maynard, Medfield, Medford, Medway, Melrose, Mendon, Merrimac, Methuen, Middleborough, Middleton, Milford, Millis, Milton, Nahant, Nantucket, Natick, Needham, New Bedford, Newbury, Newburyport, Newton, Norfolk, North Reading, North Andover, North Attleborough, Northborough, Norton, Norwell, Norwood, Oak Bluffs, Orleans, Paxton, Peabody, Pembroke, Pepperell, Plainville, Plymouth, Plympton, Princeton, Provincetown, Quincy, Randolph, Raynham, Reading, Rehobeth, Revere, Rochester, Rockland, Rockport, Rowley, Rutland, Salem, Salisbury, Sandwich, Saugus, Scituate, Seekonk, Sharon, Sherborn, Shirley, Shrewsbury, Somerset, Somerville, Southborough, Sterling, Stoneham, Stoughton, Stow, Sudbury, Swampscott, Swansea, Taunton, Tewksbury, Tisbury, Topsfield, Townsend, Truro, Tyngsborough, Upton, Wakefield, Walpole, Waltham, Wareham, Watertown, Wayland, Wellesley, Wellfleet, Wenham, West Boylston, West Tisbury, West Newbury, West Bridgewater, Westborough, Westford, Westminster, Weston, Westport, Westwood, Weymouth, Whitman, Wilmington, Winchester, Winthrop, Woburn, Worcester, Wrentham, Yarmouth.

(2) The project shall be conducted on public property:

- (a) on a roadway or its adjacent lands which are subject to stormwater runoff;
- (b) on a mobile facility or a boat ramp, dock, or other municipal boat landing facility.

(3) The project must control identified sources of nonpoint pollution.

(4) The project must use commonly accepted Best Management Practices (BMPs) for managing stormwater runoff and boat waste management as referenced in the Department of Environmental Protection's *Massachusetts Stormwater Handbook* or the Office's *Massachusetts Clean Marina Guide*, or other BMPs that the Committee determines to be acceptable.

(5) The Applicant agrees to comply with the fiscal requirements of the Program in 301 CMR 26.08.

26.05: Application and Requirements for Grant Awards

(1) As detailed in a Request for Responses issued by the Office, the Applicant shall submit a Program application, together with any other documentation required by the Office and the Request for Responses. The application shall include the following information:

- (a) An explanation, together with supporting documentation, of the pollution problem at the project site.
- (b) A site plan of the project area, including a detailed map showing all proposed and existing structures. It shall contain the location and characteristics of the project.

- (c) A detailed explanation of how the project will abate the pollution source.
 - (d) A description documenting that the project will serve the public interest and how it is consistent with community wide needs and priorities.
 - (e) Documentation that evidences support (including a financial commitment) for the project from any appropriate local authority, including, if applicable, the local conservation commission and the local Department of Public Works.
 - (f) A statement indicating that all licenses, permits or other approvals required by local, state and federal agencies will be sought and received prior to commencement of the project.
- (2) The Applicant shall provide engineering plans for the project to the Office prior to the execution of the grant funds agreement, or the release of any grant funds.
- (3) The Applicant must acknowledge that the grant funds agreement will not be signed until all approvals required by law are received, and detailed plans are submitted to the Office.
- (4) The Applicant shall execute a grant funds agreement which shall contain all relevant requirements.

26.06: State Action

- (1) The Office will publish any Request for Responses on the CommBuys (or other official state procurement system) and will announce the availability on its website, monthly newsletter, coastal community email lists, and other means.
- (2) The Office shall forward submitted applications to the Committee for review and evaluation as described in 301 CMR 26.07.
- (3) Based on its review and evaluation, the Committee shall make recommendations for awards to the Director and Secretary.
- (3) The Office will enter into grant fund agreements with Applicants whose projects are accepted for funding under the Program.

26.07: Applicable Criteria in Project Evaluation

- (1) The Committee shall consider the following priority areas in making selections of grant fund recipients. The priority projects are those which:
- (a) reduce pollution from roadways or marine vessels entering into waterbodies.
 - (b) can be accomplished within the budget presented in the application.
 - (c) are cost-effective.
 - (d) will have measurable positive benefits to coastal zone resources.
 - (e) will assist in shellfish bed restoration.

(f) utilize and demonstrate the value of appropriate and commonly accepted Best Management Practices for managing stormwater runoff from roadways or boat pumpout facilities.

26.08: Fiscal Considerations

- (1) Projects that receive Program grant funds are eligible for reimbursement of up to 75% of the total project cost as identified in the grant funds agreement.
- (2) The Applicant shall be responsible for funding 25% of the project costs. The Applicant may fund its required matching share through a variety of methods, including, but not limited to:
 - (a) in-kind contributions, including the cost of engineering designs and other directly related project costs incurred within grant project period,
 - (b) cash contributions, or
 - (c) goods and services.
- (3) Criteria for matching share requirements and documentation shall be identified in the grant funds application.
- (4) Reimbursement will be made only after the Applicant has demonstrated the following:
 - (a) The amount of money equal to that set forth in the billing submitted to the Office for reimbursement has been expended; and
 - (b) Documentation on all billing invoices has been received by the Office.

26.99: Severability

If any section or clause of 301 CMR 26.00 is held invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected thereby.

REGULATORY AUTHORITY

301 CMR 26.00: St. 1994, c. 273, § 2I.